

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ORDER

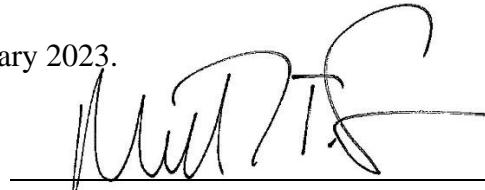
This matter is before the Court on review of the file. The Court directed Plaintiff to file an update on this action, including how the motion for preliminary approval of class action settlement in *Street v. O'Toole*, 4:19-cv-02590-CDP (E.D. Mo.), might affect this action. Plaintiff did so. As Plaintiff noted, Judge Perry since has granted preliminary approval of the settlement in *Street*. Plaintiff has not received formal notice of the settlement and, at this time, intends to continue litigating this action, as is his right. Doc. [240] ¶ 11; *see also In re Piper Funds, Inc.*, 71 F.3d 298, 303–04 (8th Cir. 1995) (recognizing plaintiffs have a right to opt out of a Rule 23 class action).

Plaintiff, though, foretells of a “need” to amend the current Amended Case Management Order. Doc. [240] ¶ 7. The parties have been litigating this case in this Court for a total of about forty-five months. Plaintiffs filed this action just shy of five years ago, and it was on appeal before the Court of Appeals for about fifteen months. Once the action was back before this Court, the Court entered a new Case Management Order. By request and agreement of the parties, this Court amended that Case Management Order in September 2022, extending its deadlines. Doc. [227]. The Court does not foresee a likely scenario where the parties sufficiently can demonstrate good cause to amend the case management order yet again. *See Fed. R. Civ. P. 6(b); see also Fed. R. Civ. P. 1* (requiring that the Rules “be construed, administered, and employed by the court and the

parties to secure the just, *speedy*, and inexpensive determination of every action and proceeding” (emphasis added)).

The Court expects the parties to cooperate in good faith on discovery, especially in scheduling depositions—the occurrence of which Defendants did not oppose. *See* Docs. [228], [230]; E.D. Mo. L.R. 4.01(B). Any issues surrounding discovery that the parties cannot resolve themselves must be raised with the Court in a diligent and timely manner. Before moving for an Order relating to discovery, however, the movant must request a conference with the Court.

So ORDERED this 9th day of February 2023.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE